REMARKS

I. Introduction

Claims 17, 18, 25-28 and 30 have been amended. Claims 17-32, 35 and 36 are pending in the present application. For at least the reasons set forth below, Applicants submit that the pending claims are in condition for allowance.

II. Rejection of Claims 17, 19, 21, 23, 25-32, 35 and 36 under 35 U.S.C. § 112, Second Paragraph

Claims 17, 19, 21, 23, 25-32, 35 and 36 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

With respect to claims 17 and 30, the Examiner objects to the term "immediately." Claims 17 and 30 have been amended to delete this term, rendering this rejection moot.

With respect to claims 25 and 26, the Examiner objects to the term "second data." Claims 25 and 26 have been amended to delete the term "second," thereby clarifying that the data refers to data obtained from the memory of the device being programmed.

Accordingly, claims 17, 25, 26 and 30 (as well as all claims dependent thereon) are definite. Withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

III. Rejection of Claims 17, 19, 21, 23, 29-32, 35 and 36 under 35 U.S.C. § 103(a)

Claims 17, 19, 21, 23, 29-32, 35 and 36 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. No. 2002/0019877 ("Wrede") in view of U.S. Publication No. 2002/0035429 ("Banas").

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements"

in the manner claimed. See KSR Int'l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id., at 1396. To the extent that the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claim 17 has been amended to recite, in relevant parts, "remotely transmitting a legitimization from the control station to the interface, the legitimization forming a security code associated with the device," and "**forwarding the legitimization, unbuffered, to the device upon receiving the legitimization at the interface**." Claim 30 has been amended to recite similar features as claim 17.

The Examiner contends that paragraph [0026] of Wrede describes forwarding of an unbuffered legitimization (the Examiner equates the identification code of Wrede with the claimed unbuffered legitimization). However, the cited paragraph of Wrede does not mention that the identification code is sent directly to the control unit SG without buffering. In fact, the entire Wrede reference is silent as to whether or not the identification code is buffered. Furthermore, sending the identification code directly from the central vehicle computer ZFR to the control unit SG does not necessarily mean that the identification code is sent without first buffering the identification code; instead, this at most suggests that the central vehicle computer ZFR sends the identification code without the aid of any intervening device. Therefore, Wrede does not disclose "forwarding the legitimization, **unbuffered**, to the device **upon receiving the legitimization** at the interface."

Additionally, to the extent that the Examiner is suggesting that it would be obvious to send the identification code without buffering, it should be noted that such an inference is inconsistent with the usage of the storage buffer as described in paragraphs [0016], [0021] and [0023] of Wrede. According to these paragraphs, the central vehicle computer ZFR **temporarily stores** transmitted data, i.e., the transmitted data is checked, recorded and

initially buffered at the central vehicle computer ZFR before being sent to a destination control unit SG. Because transmitted data is buffered at the central vehicle computer, it follows that the identification code (which is also transmitted data) would be buffered in the same manner as transmitted program data. In other words, there is no distinction, according to Wrede, between different types of transmitted data. Therefore, there is nothing to suggest that the identification code would be fowarded unbuffered to the control unit SG.

Banas fails to remedy the above-noted deficiencies of Wrede as applied against claim 17. Accordingly, the combination of Wrede and Banas fails to render obvious claims 17 and 30, as well as dependent claims 19, 21, 23, 29 and 31, 32, 35 and 36.

In view of all of the foregoing, withdrawal of the obviousness rejection of claims 17, 19, 21, 23, 29-32, 35 and 36 is respectfully requested.

IV.   Rejection of Claims 18, 20, 22 and 24 under 35 U.S.C. § 103(a)

Claims 18, 20, 22 and 24 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wrede in view of Banas and U.S. Publication No. 2002/0129043 ("Nakada").

Claim 18 has been amended to recite, in relevant parts, "buffering the legitimization at the interface by storing the legitimization together with the program data," "assigning a validity period to the legitimization" and "after the buffering of the legitimization, forwarding the legitimization to the device."

The Examiner contends that paragraph [0078] of Nakada discloses an assigned validity period. However, the period disclosed in Nakada refers to the validity of the program itself, rather than the validity of a legitimization. According to Nakada, the program validity period is used to determine whether a pre-installed program should be deleted, e.g., after the program's trial period has expired. In contrast, the validity period of the legitimization according to claim 18 refers to a period during which the legitimization will be accepted as valid by the device being programmed. Thus, the legitimization's validity period relates to providing device access so that a program can be installed. This concept is expressly provided for in the claim 18 limitations "checking, by the device, the legitimization for validity, wherein the checking includes checking of the validity period

of the legitimization" and "if the legitimization is determined to be valid, entering the program data in a memory of the device." Accordingly, the program validity period of Nakada does not constitute a legitimization validity period as provided in claim 18.

Banas fails to remedy the above-notd deficiencies of Wrede and Nakada as applied against claim 18. Accordingly, the combination of Wrede, Banas and Nakada fails to render obvious claim 18, as well as dependent claims 20, 22 and 24.

In view of all of the foregoing, withdrawal of the obviousness rejection of claims 18, 20, 22 and 24 is respectfully requested.

V.   Rejection of Claim 25-28 under 35 U.S.C. § 103(a)

Claim 25 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wrede in view of Banas and U.S. Publication No. 2004/0054444 ("Abeska"). Claims 26-28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wrede in view of Banas, Nakada and Abeska.

Claim 25 ultimately depends on claim 17. Claims 26-28 ultimately depend on claim 18. Abeska fails to remedy the deficiencies of Wrede and Banas as applied against claim 17, and the deficiencies of Wrede, Banas and Nakada as applied against claim 18. Accordingly, the combination of Wrede, Banas, Nakada and Abeska fails to render obvious claims 25-28.

In view of all of the foregoing, withdrawal of the obviousness rejection of claims 25-28 is respectfully requested.

Conclusion

In light of the foregoing, Applicants respectfully submit that all of the pending claims 17-32, 35 and 36 are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

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